

Office of the Secretary of Defense

§ 86.3

listed on employment or certification applications.

(c) Establishes policy, assigns responsibilities, and prescribes procedures for criminal history background checks for all existing and newly hired individuals involved in the provision of child care services as Federal employees, contractors, or in Federal facilities to children under the age of 18. The checks are required of all individuals in the Department of Defense involved in providing child care services defined in Public Law 101-647, and for policy reasons, those categories of individuals not expressly governed by the statute.

(d) Allows the Department to provisionally hire such individuals before the completion of a background check. However, at all times while children are in the care of that individual, the child care provider must be within sight and under the supervision of a staff person whose background check has been successfully completed. Healthcare personnel shall comply with guidance provided in the Memorandum from the Assistant Secretary of Defense for Health Affairs (ASD(HA))¹, April 20, 1992.

(e) Includes all individuals providing child care services to children in accordance with 32 CFR part 310, Federal Personnel Manual (FPM)², 32 CFR part 154, DoD Directive 6400.1³, DoD Instruction 6060.2⁴, DoD Instruction 6400.2⁵, DoD Directive 1400.13⁶, 32 CFR part 68, DoD Directive 6025.11⁷, DoD Directive 1015.1⁸, and 32 CFR part 212.

§ 86.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, the

Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as “the DoD Components”).

§ 86.3 Definitions.

Terms used in this part are defined as follows.

(a) *Appropriated Fund (APF) Employees.* Personnel hired by DoD Components with appropriated funds as defined in the FPM, Chapter 731. This includes temporary employees, 18 years old or older, who work with children.

(b) *Care provider.* As defined in Public Law 101-647, section 231 and Public Law 102-190, section 1094. Providers included are current and prospective individuals hired with APF and nonappropriated funds (NAF) for education, treatment or healthcare, child care or youth activities, individuals employed under contract who work with children and those who are certified for care. Care providers are individuals working within programs that include alphabetically: Child Development Programs, DoD Dependents Schools, DoD-Operated or -Sponsored Activities, DoD Section 6 School Arrangements, Foster Care, Private Organizations on DoD Installations, and Youth Programs. Background checks are required for all civilian and military providers (except military health care providers) involved in child care services who have regular contact with children.

(c) *Child.* An unmarried person, whether natural child, adopted child, foster child, stepchild, or ward, who is a family member of a military member or DoD civilian or their spouse, and who is under the age of 18 years; or is incapable of self support because of a mental or physical incapacity and for whom treatment is authorized in a medical facility of the Military Services, as defined in DoD Directive 6400.1.

(d) *Child abuse and/or neglect.* The physical injury, sexual maltreatment, emotional maltreatment, deprivation of necessities, or other maltreatment of a child. The term encompasses both acts and omissions on the part of a responsible person, as defined in DoD Directive 6400.1.

(e) *Child care services.* DoD personnel and contractors who are involved in

¹Copies may be obtained from OASD(HA) Room 3E346, The Pentagon, Washington, DC 220301-1200.

²Copies may be obtained from a Federal Depository Library, or a Federal Agency Personnel Office.

³Copies may be obtained from the National Technical Information Service, 5285 Port Royal, Springfield, VA 22161.

⁴See footnote 3 to § 86.1(e).

⁵See footnote 3 to § 86.1(e).

⁶See footnote 3 to § 86.1(e).

⁷See footnote 3 to § 86.1(e).

⁸See footnote 3 to § 86.1(e).